

## **REMARKS**

Claims 1-20 and 22 are pending in the present application. Claims 1, 5, 15, 16, 17 and 18 were amended. Claims 14, 19 and 20 stand allowed. Claim 21 has been cancelled. Claim 22 is new and presented herein for consideration. Reconsideration of the pending claims is respectfully requested.

### **35 U.S.C. 112, First Paragraph Rejection**

With regard to the rejection of Claims 1-8 under 35 U.S.C. 112, first paragraph, the Applicants have amended Claim 1 and deletes the reference to “an exterior surface” in the claim. Applicants would show the originally filed specification discloses and supports the newly amended claim that sets forth a housing or sleeve (30) that surrounds and covers, and therefore “substantially encloses,” a capstan (14), plunger (28) and the other components set forth at Page 3, para. 0044, in Published Application No. 20040231923 and as shown in Figures 2, 13 and 14 of same. As to Claims 2-8, these claims depend from independent claim 1 discussed above and therefore the relative aforementioned arguments are incorporated herein. Applicants respectfully request the Examiner withdraw the 35 U.S.C. 112, First Paragraph rejection as to Claims 1-8.

### **35 U.S.C. 112, Second Paragraph Rejection**

With regard to the rejection of Claims 5 and 16 under 35 U.S.C. 112, second paragraph, the Applicants have amended Claim 5 to include and claim a “rope.”

As to Claim 16, the Applicants have amended Claim 16 to correct the lack of antecedent basis cited by the Examiner. As such, Claims 5 and 16 have been amended to comport with the Examiner’s requirement. Applicants respectfully request withdrawal of the 35 U.S.C. 112, Second Paragraph rejection of Claims 5 and 16.

### **35 U.S.C. 102, Anticipation Rejection**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section mad in this office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-13 and 21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Himmelrich (U.S. Patent No. 4,474,262). Himmelrich shows a housing 11,10,12 including a capstan, a plunger 20, biasing member M, a transverse aperture 41, as set forth in claim 10.

This rejection is respectfully traversed. Initially, the Applicants would note that the Himmelrich reference contains only seven (7) claims. The Examiner references Claim 10, but Applicant is unsure as to whether the Examiner refers to nonexistent Claim 10 of the Himmelrich reference or Claim 10 from the Applicants' pending claims. Clarification is requested.

For the purposes of moving prosecution forward, Applicants would show that every element within the cited reference is not found in claims 1-13 of the Applicants' application. The Examiner refers to a transverse aperture element (41) as being disclosed and anticipated by the Himmelrich reference. This is incorrect. Himmelrich teaches element (41) as a "radial opening" which is utilized by the Himmelrich device in the manner by which a rod (40) extends inwardly from the brake shoe (20), concentrically with and through the bore (30) and spring (32) of the means (M) and thence out through radial opening (41) in the side of the base (12) opposite the recess (14) (Himmelrich, Col. 5, lines 1-9). In short, radial slot (41) is nothing more than a slot for rod (40) to freely move back and forth through. In contrast, the transverse aperture (60) as described and utilized by the Applicants' specification and claims, refers to a "generally tear-dropped" tapered slot that "loosely receives the rope to a narrow or gripping end that frictionally grips the rope" (Published Application No. 20040231923, Page 2, para. 0041, and Figures 2, 3 and 10). The Himmelrich radial slot (41) is not, and does not, receive any portion of the rope (Himmelrich, Fig. 3). Therefore, Claims 1 and 10 recite a limitation not disclosed or taught by Himmelrich. As to Claims 2-9 and 11-13, these claims depend from the independent Claims 1 and 10 discussed above and therefore the relative aforementioned arguments are incorporated herein. Applicants respectfully request that Examiner withdraw the rejection of Claims 1-13 under 35 U.S.C. §102(b).

### **35, U.S.C. 103(a) , Obviousness Rejection**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Himmelrich. To construct to have inner and external radii of 1.2 and 3 times, respectively the rope radius, depending on the size rope used, would have been an obvious engineering expediency.

This rejection is respectfully traversed. As discussed below, the Examiner has failed to demonstrate that said claims are obvious pursuant to 35 U.S.C. §103(a).

A *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. *In re Bell*, 991 F.2d 781, 783, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993). A proper *prima facie* case of obviousness cannot be established by combining the teachings of the prior art absent some teaching, incentive, or suggestion supporting the combination. *In re Napier*, 55 F.3d 610, 613, 34 U.S.P.Q.2d 1782 (Fed. Cir. 1995); *In re Bond*, 910 F.2d 831, 834, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). Moreover, the combination of elements from nonanalogous sources, in a manner that reconstructs the applicant's invention only with the benefit of hindsight, is insufficient to present a *prima facie* case of obviousness. There must be some reason, suggestion, or motivation found in the prior art whereby a person of ordinary skill in the field of the invention would make the combination. That knowledge cannot come from the applicant's invention itself. *In re Oetiker*, 977 F.2d 1443, 24 U.S.P.Q.2d 1443, 1446 (Fed. Cir. 1992).

Regarding Claim 5, the Examiner states the utilization of 1.2 and 3 times, respectively the rope radius, depending on the size rope used,” would have been obvious as an engineering “expediency.” Himmelrich makes no mention or disclosure of “rope radius.” Himmelrich does not teach or even suggest rope path surfaces and their effect on rope wear or yield strength. As such, Applicants respectfully request the Examiner to withdraw the rejection of Claim 5 under 35 U.S.C. §103(a).

Claims 15, 17, and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Pursuant to the Examiner's objection, Claims 15, 17, and 18 have been rewritten in independent form and are now believed to be in a state of allowance. Applicants respectfully request that the Examiner withdraw the objection to Claims 15, 17, and 18 and allow Claims 15, 17, and 18 as currently amended.

## CONCLUSION

In light of the amendments and the arguments made by Applicants above, Applicants submit that all existing claims are now in condition for allowance. Applicants respectfully request that Examiner withdraw all rejections and objections with regard to the above-referenced claims in reliance on one or more of the grounds submitted by Applicants.

If there are any outstanding issues that the Examiner feels may be resolved by way of a telephone conference, the Examiner is cordially invited to contact Scott L. Harper at (972) 367-2001.

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Respectfully submitted:

A handwritten signature in black ink, appearing to be 'S. Harper', written over a horizontal line.

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